

## **REMARKS/ARGUMENTS**

### **I. SUPPORT FOR THE AMENDMENTS TO THE SPECIFICATION AND CLAIMS**

In response to the Office Action of 21 October 2005, the specification has been amended to remove hyperlink text. In addition, the specification has been amended to insert references to sequence identification numbers that correspond to the sequence listing also submitted herewith. Accordingly, no new matter has been introduced by way of these amendments to the specification.

Claims 1-21 have been canceled and new claims 22-47 have been added. Accordingly, claims 22-47 are now pending. Support for the new claims 22-47 can be found throughout the specification and originally filed claims. Specifically, support for independent claims 22 and 36 can be found in at least paragraphs 0022, 0024, 0057, 0062, 0063 and originally presented claims 1 and 2. Support for dependent claims 23, 34, 35, 37, 46 and 47 can be found in at least paragraphs 0045-0054 and originally presented claims 1 and 9-12. Support for dependent claim 24 can be found in at least paragraph 0056 and originally presented claim 17. Support for dependent claim 25 can be found in at least paragraphs 0003, 0016, 0025 and originally presented claim 2. Support for dependent claims 26, 27, 30, 31, 38, 39, 42 and 43 can be found in at least paragraphs 0003, 0017, 0023, 0024, 0037, 0038, 0066 and originally presented claims 3 and 4. Support for dependent claims 28, 29, 32, 33, 40, 41, 44 and 45 can be found in at least paragraphs 0023, 0040, 0025, 0037, 0078, Table 1 and originally presented claim 6. Accordingly, no new matter has been introduced by way of the newly presented claims.

### **II. THE OFFICE ACTION OF OCTOBER 21, 2005**

#### **A. SEQUENCE COMPLIANCE**

In response to the October 21<sup>st</sup> Office Action, Applicants submit herewith a paper copy of the Sequence Listing. Also submitted herewith is a computer readable form of the sequence

listing, as well as a statement under 37 C.F.R. 1.821(f). Applicants request entry of the Sequence Listing into the specification.

**B. OBJECTIONS TO THE SPECIFICATION**

In response to the objection to the specification as filed, the specification has been amended to remove hypertext language.

The October 21<sup>st</sup> Office Action objected to the specification because, “the disclosure does not provide a section briefly describing the drawings.” *October 21<sup>st</sup> Office Action*, page 3. Applicants point out that the section of the specification briefly describing the drawings is located at paragraphs 0071-0075 of the specification (U.S. Pregrant Publication No. 2004/0191245). Reconsideration and withdrawal of this objection to the specification are earnestly solicited.

**C. THE REJECTIONS UNDER 35 U.S.C. §112, FIRST AND SECOND PARAGRAPHS, ARE MOOT**

**1. Written Description**

The October 21<sup>st</sup> Office Action rejected previously pending claims 1-21 under 35 U.S.C. §112, first paragraph as allegedly “failing to comply with the written description.” *October 21<sup>st</sup> Office Action*, page 3. Without agreeing with the assertions that the specification fails to support previously pending claims 1-21, Applicants have canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 1-21 under 35 U.S.C. §112, first paragraph, is now moot. Withdrawal of this rejection is earnestly solicited.

**2. Enablement**

The October 21<sup>st</sup> Office Action rejected previously pending claims 1-21 under 35 U.S.C. §112, first paragraph, because the specification allegedly does not “enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention

commensurate in scope with [the previously pending] claims.” *October 21<sup>st</sup> Office Action*, page 5. Without agreeing with the assertions that the specification fails to enable the previously pending claims 1-21, Applicants have canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 1-21 under 35 U.S.C. §112, first paragraph, is now moot. Withdrawal of this rejection is earnestly solicited.

### **3. Indefiniteness**

The October 21<sup>st</sup> Office Action rejected previously pending claims 1-21 under 35 U.S.C. §112, first paragraph, because the specification allegedly failed to “particularly point out and distinctly claim the subject matter which applicant regards as the invention.” *October 21<sup>st</sup> Office Action*, page 7. Without agreeing with the assertions that claims 1-21 were indefinite, Applicants have canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 1-21 under 35 U.S.C. §112, second paragraph, is now moot. Withdrawal of this rejection is earnestly solicited.

### **D. THE REJECTIONS UNDER 35 U.S.C. §102 ARE MOOT**

#### **1. Walter**

The October 21<sup>st</sup> Office Action rejected previously pending claims 1-7, 13 and 14 under 35 U.S.C. §102(b) as allegedly “being anticipated by Walter et al.” *October 21<sup>st</sup> Office Action*, page 8. Without agreeing that Walter *et al.* anticipated previously pending claims 1-7, 13 and 14, Applicants have canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 1-7, 13 and 14 under 35 U.S.C. §102(b) is now moot.

Applicants note that Walter does not teach all the limitations of previously pending claims 1-7, 13 and 14, and does not teach all the limitations of currently pending claims 22-47. Namely, Walter does not teach depleting anti-MHC antibodies from a sample comprising

contacting the sample with recombinant MHC or recombinant MHC-type molecules and removing the bound complex from the sample. The Office Action relies upon Applicants own disclosure to assert that Walter teaches depleting anti-MHC antibodies from a sample. The Office Action cites a portion of the specification (paragraph 0063) as support that Walter teaches depletion of antibodies. Paragraph 0063 occurs in the middle of a discussion regarding embodiments relating to depletion of antibodies. Paragraph 0063, however, provides no basis for the notion that binding of recombinant MHC molecules will necessarily result in removal of anti-MHC antibodies from a sample. In fact, paragraph 0055 of the specification also discusses binding of the recombinant MHC molecules to anti-MHC in the context of detecting the complex rather than removing the complex. Furthermore, the word “optionally” does not appear in current claims 22-47.

Thus, Applicants assert that Walter fails to anticipate the previously pending and currently pending claims because Walter does not teach removal of the bound complex from the sample. Reconsideration and withdrawal of this rejection are earnestly solicited.

## **2. Barnado (a) and Barnado (b)**

The October 21<sup>st</sup> Office Action rejected previously pending claims 1-8 and 17 under 35 U.S.C. §102(a) as allegedly “being anticipated by Barnado et al ...Human Immunology, Abstracts 1999, Volume 60, Supplement 2 [Barnado (a)].” *October 21<sup>st</sup> Office Action*, page 8. Without agreeing that Barnado (a) anticipated previously pending claims 1-8 and 17, Applicants have canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 1-8 and 17 under 35 U.S.C. §102(a) is now moot.

The October 21<sup>st</sup> Office Action also rejected previously pending claims 1-8 and 17 under 35 U.S.C. §102(a) as allegedly “being anticipated by Barnado et al ...Human Immunology (1999) Vol 60, No. Suppl. 2, ppS1 [Barnado (b)].” *October 21<sup>st</sup> Office Action*, page 10. Without agreeing that Barnado (b) anticipated previously pending claims 1-8 and 17, Applicants have

canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 1-8 and 17 under 35 U.S.C. §102(a) is now moot.

Applicants note that neither Barnado (a) nor Barnado (b) teaches all the limitations of previously pending claims 1-8 and 17, and does not teach all the limitations of currently pending claims 22-47. Namely, neither Barnado (a) nor Barnado (b) teach depleting anti-MHC antibodies from a sample comprising contacting the sample with recombinant MHC or recombinant MHC-type molecules and removing the bound complex from the sample. The Office Action relies upon Applicants own disclosure to assert that Barnado (a) and Barnado (b) teach depleting anti-MHC antibodies from a sample. The Office Action cites a portion of the specification (paragraph 0063) as support that Barnado (a) and Barnado (b) teach depletion of antibodies. Paragraph 0063 occurs in the middle of a discussion regarding embodiments relating to depletion of antibodies. Paragraph 0063, however, provides no basis for the notion that binding of recombinant MHC molecules will necessarily result in removal of anti-MHC antibodies from a sample. In fact, paragraph 0055 of the specification also discusses binding of the recombinant MHC molecules to anti-MHC in the context of detecting the complex rather than removing the complex. Furthermore, the word “optionally” does not appear in current claims 22-47.

Thus, Applicants assert that both Barnado (a) and Barnado (b) fail to anticipate the previously pending and currently pending claims because neither Barnado (a) nor Barnado (b) teach removal of the bound complex from the sample. Reconsideration and withdrawal of this rejection are earnestly solicited.

**E. THE REJECTIONS UNDER 35 U.S.C. §103 ARE MOOT**

**1. Walter and Whitehead**

The October 21<sup>st</sup> Office Action rejected previously pending claims 1-7, 9, 13, 14 and 17 under 35 U.S.C. §103(a) as allegedly “unpatentable over Whitehead et al (US 4,554,088) in view of Walter et al ....” *October 21<sup>st</sup> Office Action*, page 12. Without agreeing that previously

pending claims 1-7, 9, 13, 14 and 17 were obvious over Whitehead and Walter, Applicants have canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 1-7, 9, 13, 14 and 17 under 35 U.S.C. §103(a) is now moot.

Applicants note that the combination of cited references fails to teach each and every limitation of previously pending claims 1-7, 9, 13, 14 and 17 and also fail to teach each and every limitation of the currently pending claims. Namely, the combination of cited references fails to teach depletion of anti-MHC antibodies from a sample. Accordingly, the combination of cited references fails to establish a prime facie case of obviousness over the previous and current claims. Reconsideration and withdrawal of this rejection are earnestly solicited.

## **2. Walter, Whitehead and Luxembourg**

The October 21<sup>st</sup> Office Action rejected previously pending claims 10-12 under 35 U.S.C. §103(a) as allegedly “unpatentable over Whitehead et al and Walter et al in view of Luxembourg et al (2004/0137617).” *October 21<sup>st</sup> Office Action*, page 13. Without agreeing that previously pending claims 10-12 were obvious over Whitehead, Walter and Luxembourg, Applicants have canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 10 and 12 under 35 U.S.C. §103(a) is now moot.

Applicants note that the combination of cited references fails to teach each and every limitation of previously pending claims 10-12 and also fail to teach each and every limitation of the currently pending claims. Namely, the combination of cited references fails to teach depletion of anti-MHC antibodies from a sample. Accordingly, the combination of cited references fails to establish a prime facie case of obviousness over the previous and current claims. Reconsideration and withdrawal of this rejection are earnestly solicited.

### **3. Walter, Whitehead and Tan**

The October 21<sup>st</sup> Office Action rejected previously pending claims 8 and 18-21 under 35 U.S.C. §103(a) as allegedly “unpatentable over Whitehead et al and Walter et al in view of Tan et al ....” *October 21<sup>st</sup> Office Action*, page 14. Without agreeing that previously pending claims 8 and 18-21 were obvious over Whitehead, Walter and Tan, Applicants have canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 8 and 18-21 under 35 U.S.C. §103(a) is now moot.

Applicants note that the combination of cited references fails to teach each and every limitation of previously pending claims 8 and 18-21 and also fail to teach each and every limitation of the currently pending claims. Namely, the combination of cited references fails to teach depletion of anti-MHC antibodies from a sample. Accordingly, the combination of cited references fails to establish a prime facie case of obviousness over the previous and current claims. Reconsideration and withdrawal of this rejection are earnestly solicited.

### **4. Walter, Whitehead and Burrows**

The October 21<sup>st</sup> Office Action rejected previously pending claims 15 and 16 under 35 U.S.C. §103(a) as allegedly “unpatentable over Whitehead et al and Walter et al in view of Burrows et al (US 2005/0074853).” *October 21<sup>st</sup> Office Action*, page 15. Without agreeing that previously pending claims 15 and 16 were obvious over Whitehead, Walter and Burrows, Applicants have canceled claims 1-21 and have presented new claims 22-47 to better capture the envisioned commercial embodiments. Accordingly, the rejection of claims 15 and 16 under 35 U.S.C. §103(a) is now moot.

Applicants note that the combination of cited references fails to teach each and every limitation of previously pending claims 15 and 16 and also fail to teach each and every limitation of the currently pending claims. Namely, the combination of cited references fails to teach depletion of anti-MHC antibodies from a sample. Accordingly, the combination of cited

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references fails to establish a prime facie case of obviousness over the previous and current claims. Reconsideration and withdrawal of this rejection are earnestly solicited.

## CONCLUSION

Applicants have canceled claims 1-21 and presented new claims 22-47. Applicants have also amended the specification to comply with sequence listing requirements and to remove hypertext language. Support for the claim amendments can be found throughout the specification. Accordingly, no new matter has been introduced the amendments to the claims and specification.

In view of the presentation of new claims, the various rejections of claims 1-21 are rendered moot.

Should the Examiner believe that further discussion of any remaining issues would advance the prosecution, he or she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date April 21, 2006

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being facsimile transmitted or being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21<sup>st</sup> day of April, 2006

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